

August 5, 2016

CONFIDENTIAL

Via Hand Delivery

Jeff Jordan, Assistant General Counsel, CELA
Office of the General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: MUR 7090

OFFICE OF GENERAL
COUNSEL

2016 AUG -8 AM 7:52

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FEDERAL ELECTION
COMMISSION

Dear Mr. Jordan:

This letter is on behalf of Coalition for Progress and Ana Rivas in her official capacity as Treasurer (collectively referred to as "CFP") in response to the complaint filed in the above-captioned matter by Daniel Levin regarding CFP's receipt and retention of a \$1,000,000 contribution. As will be discussed further herein, the Commission should dismiss this complaint outright because there were no factual allegations set forth in the complaint purporting to demonstrate that CFP knowingly accepted a contribution made in some other person's name, and CFP promptly amended their 2015 Year End Report upon request by DE First Holdings' attorney and acted in full accordance with recent Commission precedent.

There is no basis for finding "reason to believe" a violation by CFP occurred when accepting or disclosing the contribution.

As noted in our response to MURS 7014 and 7017, it is "Political Law 101" that a complaint should satisfy some very basic standards, such as setting forth specific facts that, if true, constitute a violation of the Federal Election Campaign Act of 1971 (the "Act").¹ This complaint does not assert any factual statements that demonstrate a violation of the Act by CFP. Mere conjecture is not enough.

Commission precedent establishes that the complaint herein against CFP should be dismissed. In five recent MURs that involved allegations of contributors attempting to conceal their identities by using business entities to make contributions to independent expenditure only committees (*i.e.*,

¹ 11 C.F.R. § 111.4(d)(3).

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Super PACs), the Commission dismissed all of the Complaints.² Importantly, in those cases where the First General Counsel's Report noted there was "no evidence to suggest"³ the recipient committees knowingly accepted a contribution in the name of another, the recommendation consistently was to find "no reason to believe" that the recipient committees violated 52 USC § 30122.⁴ Even before these recent complaint dismissals related to SuperPAC contributions, the Commission has rarely found "reason to believe" that a recipient committee knowingly accepted a contribution made by one person in the name of another.⁵ There is no basis for concluding the facts in this matter are materially different from the facts set forth in the various MURs recently dismissed by the FEC and, accordingly, the Commission should find no reason to believe that the acceptance and reporting of the contribution at issue amounts to a violation of law.

There is no basis for finding "reason to believe" CFP violated the law by amending its 2015 Year End Report and not refunding the contribution.

Complainant herein asserts that CFP is in violation of law for retaining the contribution in question rather than refunding it. As Commissioners well know, CFP acted in full accordance with the actions of the recipient committees involved in the recent MURs dismissed by the agency.

In early June of this year, the attorney for DE First Holdings and Vivek Garipalli requested that CFP amend its 2015 Year End Report to reflect that the December 24, 2015 contribution of \$1,000,000 should be reported in the name of Vivek Garipalli rather than DE First Holdings. The attorney indicated that the contribution from DE First Holdings was made with funds transferred to

² See MUR 6485, 6487, 6488, 6711, and 6930 Statement of Reasons of Chairman Matthew S. Petersen and Commissioners Caroline C. Hunter and Lee E. Goodman (April 1, 2016).

³ MUR 6485 (W Spann LLC, *et al.*) First General Counsel's Report (Aug. 28, 2012), p. 16.

⁴ MUR 6485 (W Spann LLC, *et al.*) First General Counsel's Report (Aug. 28, 2012) (recommending a finding of "no reason to believe"); MUR 6930 (Prakazrel "Pras" Michel, *et al.*) First General Counsel's Report (Nov. 19, 2015) (recommending a finding of "no reason to believe"). Note that in MUR 6711 (Specialty Investments Group, *et al.*) a recommendation of "reason to believe" was made in the First General Counsel's Report (June 6, 2014); however, specific details related to the recipient committee's knowing acceptance of the contributions at issue were brought to light in an Amendment to Complaint (April 24, 2013).

⁵ See MUR 6217 (David Vitter for U.S. Senate, *et al.*) and MUR 6463 (Democratic National Committee, *et al.*), where the First General Counsel's Reports recommended, and the Commission found, "no reason to believe" a violation by the recipient committee related to "knowingly accepting a contribution made one person in the name of another" occurred; see also MUR 6215 (Friends for Harry Reid, *et al.*) where the First General Counsel's Report recommended a finding of "no reason to believe" a violation occurred, and the Commission closed the file. The Commission, in fact, has found "reason to believe" only when there has been overwhelming evidence that the recipient committee played an integral role in setting up and carrying out a scheme to thwart the contribution limits or disclosure rules. See MUR 6922 (ACPAC, ACA International, *et al.*) where the First General Counsel's Report recommended, and the Commission found, "reason to believe" a violation by the recipient committee occurred for "knowingly accepting a contribution made one person in the name of another."

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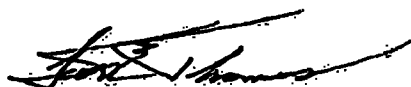
DE First Holdings from Mr. Garipalli's personal account. These circumstances are like those in the recently-dismissed MURs (thoroughly analyzed in light of FEC precedent by Commissioners Peterson, Hunter, and Goodman) where funds apparently had been provided to a distinct business entity that is fully entitled to make a contribution to a SuperPAC. In July 2016, in conjunction with preparing its next due Quarterly filing, CFP amended its 2015 Year End Report by changing the contributor identification for the December 24, 2015 contribution from DE First Holdings to Vivek Garipalli.⁶

CFP's actions are fully in line with the guidance provided in footnote 8 of the First General Counsel's Report in MUR 6485: amending a report to reflect the original source of a contribution "effectively remedied the violation" as "there is nothing to be gained by obligating [a refund]," particularly when the original source of the funds is lawfully entitled to contribute the funds in his own name.⁷ Aware of this General Counsel guidance and the Commission's ensuing disposition of the various MURs without requiring refunds, CFP properly followed available precedent.

Conclusion

In summary, the complainant has provided no basis whatsoever for the Commission to make a finding of "reason to believe" against CFP. The Commission should dismiss this matter because CFP's actions are fully consistent with the actions of the recipient committees involved in the MURs recently dismissed by the agency.

Respectfully submitted,



Scott E. Thomas
(202) 420-2601
SThomas@blankrome.com



Jennifer Carrier
(202) 420-3034
JCarrier@blankrome.com

⁶ There is no set timeframe for making an amendment of this nature in the statute or FEC regulations.

⁷ MUR 6485 (W Spann LLC, *et al.*) First General Counsel's Report (Aug. 28, 2012), p. 16, n. 8.